

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

MM Docket No. 97-_____

In the Matter of:)
)
Amendment of § 73.202(b),)
Table of Allotments,)
FM Broadcast Stations.)
(Florence and Killen, Alabama and)
and Lawrenceburg, Tennessee))

RM-_____

To: Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau

RECEIVED

MAY 26 1997

Federal Communications Commission
Office of Secretary

PETITION FOR RULEMAKING

Big River Broadcasting Corporation ("Big River"), licensee of FM broadcast stations WXFL(FM), Channel 241A, and WQLT(FM), Channel 297C, both Florence, Alabama, and H-M-S Broadcasting Co. ("H-M-S"), licensee of FM broadcast station WDXE-FM, Channel 240A, Lawrenceburg, Tennessee, (collectively "Petitioners"), by their attorneys, herewith petition for rulemaking to amend the Table of FM Allotments and to modify the licenses (1) for WXFL to specify operation on Channel 241C2 at Killen, AL (in lieu of Channel 241A at Florence, AL), (2) for WQLT(FM) to specify operation on Channel 297C1 (in lieu of Channel 297C) at Florence, AL, and (3) for WDXE-FM to specify

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operation on Channel 294A (in lieu of Channel 240A) ^{1/} at Lawrenceburg, Tennessee. In support, the following is shown:

BACKGROUND

1. Big River and H-M-S initially tendered, on March 22, 1996, an integrally-related package of three one-step applications to upgrade WXFL and WDXE-FM:

a) Big River tendered a one-step application for a construction permit for minor modification of WXFL to change from Channel 241A to Channel 241C2, at a new transmitter site (without changing community of license) (File No. BPH-960322IF);

b) Big River tendered a one-step application for a construction permit for minor modification of WQLT to reduce power (at the licensed transmitter site and antenna height) and to downgrade the channel from Class C to Class C-1 facilities (File No. BPH-960322ID); and

c) H-M-S tendered a one-step application for a construction permit for minor modification of WDXE-FM to change from Channel 240A to Channel 294A and increase power at its licensed transmitter site and antenna height (File No. BPH-960322IB).

^{1/} The adjacent IF channel change, from Channel 240A to Channel 294A, permits WDXE-FM to increase power from 3 kW to 6 kW and to achieve maximum Class A facilities, which it cannot do on Channel 240A.

2. Before filing these applications, Petitioners had researched FCC rules and procedures and discussed the matter with the FCC Staff. The Staff advised that the applications would not violate Section 73.3517 of the Rules and Regulations and that Big River and H-M-S did not have to request a waiver of the contingent application rule.

3. On June 14, 1996, the Staff granted the WQLT one-step downgrade application. The Staff advised Big River that once it filed an FCC Form 302-FM application for license to cover the WQLT construction permit, then the Commission would grant simultaneously the WQLT license application, the WDXE-FM application for CP, and the WXFL application for CP.

4. Accordingly, Big River immediately reduced WQLT's power, consistent with the terms of the construction permit, and the Staff's instructions. Big River tendered, on June 17, 1996, an application for license (File No. BLH-960617KA).

5. Thereafter, D. Mitchell Self Broadcasting, Inc. ("Self"), licensee of WSHK-FM, Russellville, AL, and of WLAY-AM-FM, Muscle Shoals, AL -- all three stations of which are direct market competitors to Big River -- informally objected to the WDXE-FM and WXFL applications as "contingent". Furthermore, on June 26, 1996, Self tendered a "Petition for Rulemaking" proposing the allotment of Channel 294A at Pulaski, Tennessee. Self's petition was short-spaced to the WDXE-FM application. In addition, Self's petition presumed the downgrade of WQLT to Class

C1 status, even though the Commission had not granted WQLT's application for license. Commission policy directs dismissal of Self's Pulaski petition for rulemaking.

6. On November 26, 1996, the Assistant Chief, Audio Services Division, dismissed the WDXE-FM and WXFL applications as "contingent". See Attachment 1.

7. On December 4, 1996, Big River withdrew the application for license for WQLT, because the FCC staff indicated that the FCC would not let the license application remain in pending status while Big River and H-M-S pursued efforts to reinstate the WXFL and WDXE-FM applications. On December 12, 1996, the FCC staff dismissed the application for license for WQLT. However, Big River still holds the construction permit BPH-960322ID for modification of the WQLT facilities, which CP expires December 14, 1997, to permit reinstatement of the WXFL and WDXE-FM applications.

8. On December 17, 1996, Big River and H-M-S petitioned for reconsideration of the dismissal of the WXFL and WDXE-FM applications.^{2/} Self opposed the petition. The matter remains pending before the FCC Staff.

^{2/} As part of the Petition for Reconsideration, Big River and H-M-S requested (and demonstrated good cause for) a waiver of § 73.3517 of the Rules and Regulations concerning contingent applications.

**THE FCC STAFF HAS CONCLUDED THAT
PETITIONERS MUST REQUEST RULEMAKING**

9. While Petitioners believe that the three applications filed on March 22, 1996, did not violate Section 73.3517 of the Rules, they nonetheless recognize that the FCC staff changed its mind and reached the conclusion that the applications were contingent. In the November 26, 1996, decision and order, the FCC staff obviously concluded that Big River and H-M-S could not upgrade WXFL and WDXE-FM through the applications tendered. Instead, the FCC staff decision makes quite clear that Big River and H-M-S would have to tender a petition for rulemaking to upgrade WXFL and WDXE-FM, concurrent with the downgrade of WQLT.

10. Accordingly, Big River and H-M-S herewith jointly petition for rulemaking to amend the FM Table of FM Allotments and to modify the licenses for WXFL, WQLT and WDXE-FM, as a single, integrally-related package, consistent with the staff analysis of November 26, 1996. Once the class of channel changes is made in this rulemaking proceeding, then the implementation of the changes by application will not be considered contingent.

PROPOSAL

11. Big River and H-M-S propose that the FCC amend the Table of FM Allotments as follows:

Channel Number

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Florence, AL	241A, 297C	297C1
Killen, AL	---	241C2
Lawrenceburg, TN	240A, 248A	248A, 294A

and modify the license for WXFL, Florence, AL, to specify operation on Channel 241C2 at Killen, AL, (thereby creating a first local service at Killen); for WQLT, Florence, AL, to specify operation on Channel 297C1, and for WDXE-FM, Lawrenceburg, TN, to specify operation on Channel 294A.

12. In support of this Proposal to amend the Table of FM allotments and to modify the licenses, Big River and H-M-S submit, as Attachment 2, the Technical Statement of Kirk Tollett.

13. In addition, in support of the request to change the community of allotment and of license for WXFL, Petitioners submit, as Attachment 3, a map of the Town of Killen, which not only depicts the boundaries of this incorporated community, but also provides additional information about various businesses, organizations and services located in the Town of Killen.

14. The Town of Killen celebrated its 100th Anniversary on August 22, 1996. Attachment 4 contains information on the history of the Town of Killen. The Town is listed in the U.S. Census with a 1990 population of 1,047 persons. The Town of Killen is located outside the Florence, Alabama urbanized area. The Town of Killen has its own Post

Office, which James Sharpe Killen established over 100 years ago and which was instrumental in the creation of the Town.

15. The Town of Killen has its own local government, composed of a Mayor and a five member Town Council. The Town has its own police and fire departments. The Town of Killen has its own Public Library. Brooks Elementary School and Brooks High School are the public schools that serve and that are located in Killen. The Town of Killen operates a Senior Center. In addition, the Killen Clinic and the Killen Dental Clinic offer medical and dental services to the residents of Killen. The Allen Thornton Area Vocational school is located in Killen. Attachment 5 contains information on the Town of Killen obtained from the Internet, including information on local churches, pre-school programs and businesses.

16. Under the Commission's FM Priorities, allotment of Channel 241C2 at Killen fulfills Priority Number Three -- "first local service". This has greater priority and is comparatively superior to retention of the channel at Florence, which would satisfy only Priority Number Four -- "other public interest matters". Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 91-92, 51 RR 2d 807, 810 (1982).

17. Channel 241C2 cannot be allotted to both Killen and Florence, because of the minimum distance separation requirements. Because the use of the Channel at Killen has greater priority than the use of the Channel at Florence, not

only is Big River entitled to request reallocation of the Channel from Florence to Killen, but also use of the Channel at Killen has a greater public interest benefit.

18. After the move of Channel 241 from Florence to Killen, the City of Florence will nonetheless retain existing radio services. Florence will be well-served with four transmission services (in addition to a plethora of reception services) -- WBCF, 1240 kHz; WBHL(FM), 91.3 MHz; WQLT(FM), 107.3 MHz, and WSBM, 1340 kHz. (Big River is the licensee of both WQLT and WSBM.)

19. Note also that the move of Channel 241 from Florence to Killen, constitutes a transfer of local radio service from an urbanized area to a rural area. Furthermore, the change in WXFL coverage proposed herein will provide a net gain in service to an additional 186,747 persons in 5,862 additional square kilometers, as shown in Mr. Tollett's technical report. The loss area in WQLT coverage is de minimis and offset many times over by the gain area in WXFL coverage.

20. Finally, Petitioners will apply for the channels if the FCC amends the Table of FM Allotments as proposed by

Petitioners herein ^{3/} and, if authorized, they will build those facilities promptly.

WHEREFORE, Big River and H-M-S request that the FCC release a Notice of Proposed Rulemaking proposing to amend the FM Table of Allotments as set forth in paragraph 11 and to modify the licenses (1) for WQLT(FM) to specify operation on Channel 297C1 at Florence, Alabama, (2) for WXFL to specify operation on Channel 241C2 at Killen, Alabama, and (3) for WDXE-FM to specify operation on Channel 294A at Lawrenceburg, Tennessee.

^{3/} The Commission can reinstate the dismissed WDXE-FM and WXFL applications. Big River can then re-tender an FCC Form 302-FM application for license for WQLT and an amendment to the WXFL application, to specify Killen as the community of license, if the FCC so chooses. Big River and H-M-S tendered their applications for improved services to the general public over fourteen months ago (on March 22, 1996). This rulemaking proceeding would require no technical changes to these applications, except the change in WXFL's community of license from Florence to Killen. The public interest would be well served by expedited grant of these facilities. The grants would vastly improve WXFL and WDXE services, in keeping with their obligations to better serve the public interest, convenience and necessity that they have judiciously done in their long history of broadcast service and public trust. Expedited grants would also mitigate the long and expensive delay to the public caused by Self.

Respectfully Submitted,

**BIG RIVER BROADCASTING
CORPORATION**

By Harold K. McCombs, Jr.
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May 28, 1997

ATTACHMENT 1

**Federal Communications Commission
Washington, D.C. 20554**

November 26, 1996

In reply refer to:
1800B3-DEB/PHD

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In re: WDXE-FM, Lawrenceburg, TN
H-M-S Broadcasting Co.
BPH-960322IB

WXFL, Florence, Alabama
Big River Broadcasting Corp.
BPH-960322IF

WQLT-FM, Florence, AL
Big River Broadcasting Corp.
BLH-960617KA

Dear Counsel:

Before the staff is a June 26, 1996 informal objection filed by D. Mitchell Self Broadcasting, Inc. ("Self"), licensee of WLAY (AM) and WLAY-FM, Muscle Shoals, AL against the above-referenced applications of H-M-S Broadcasting Co. ("HMS") and Big River Broadcasting Corporation ("Big River") for construction permits for stations WDXE-FM, Lawrenceburg, TN and WXFL, Florence, AL, respectively. For the reasons set forth below,

we grant the informal objection to the extent indicated herein and dismiss the WDXE-FM and WXFL applications (collectively, the "WDXE-FM and WXFL Applications").

Background

On March 22, 1996, Big River and HMS filed three related applications. On this date Big River, also the licensee of WQLT-FM, Florence, AL filed an application to downgrade that station from Class C to Class C1 at its present transmitter site. File No. BPH-960322ID. Big River also filed the WXFL "one step" construction permit application to upgrade from Class A to Class C2 on Channel 241. HMS filed its above-referenced "one step" application for construction permit, to change from Channel 240A to Channel 294A (the I.F. channel), and increase effective radiated power from 3.0 kW to 6.0 kW. The staff granted Big River's WQLT-FM application on June 14, 1996. See *Public Notice*, Report No. 43763, released June 19, 1996. Subsequently, on June 17, 1996, WQLT-FM filed the above-referenced license application to cover that construction permit. On June 26, 1996 Self filed a petition for rulemaking for a new Class A station on Channel 294 in Pulaski, TN. The Pulaski rulemaking conflicts with the WDXE-FM "one step" application.

The Informal Objection

Self alleges that the WDXE-FM and WXFL Applications were contingent as of the date of filing, and thus prohibited pursuant to 47 C.F.R. § 73.3517. Therefore, Self urges dismissal of the WDXE-FM and WXFL Applications. In the event that these applications are not dismissed, Self requests that the Commission treat them as counterproposals in the Pulaski rulemaking. Big River and HMS contend in their July 3, 1996 opposition to informal objection that Self's Pulaski rulemaking petition is defective and that the contingent application rule does not apply where several licensees file "integrally-related interdependent applications...as a single package."

Discussion

The WDXE-FM and WXFL Applications are contingent. It is clear from the "Statement Regarding Applications" submitted with each of the referenced applications that HMS and Big River recognized that grant of the WDXE-FM and WXFL Applications was contingent on the WSLT-FM downgrade.¹ Their contention that Section 73.3517 is inapplicable is without merit. The claim that the rule applies only where applications are in separate "proceedings" ignores the plain language of the rule. The assertion that there is "mutual interdependence" among the referenced applications is simply to give a different name to that which Section 73.3517 is intended to foreclose, namely, requesting the Commission to take no action on one application until a contingency, here the grant of an application that would eliminate a rule violation, is removed.

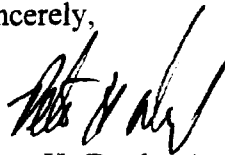
¹ Neither Big River nor HMS sought a waiver of the contingent application rule.

The examples relied on by Big River and HMS do not establish that the Commission properly accepted the WDXE-FM and WXFL Applications. Examples 17 and 19. *see Mass Media Bureau Offers Examples of the Treatment of Applications Filed Under the New "One Step" Process Including Treatment of Conflicts Between Petitions for Rule Making to Amend Part 73.202(b) and FM New and Major Change Applications, Public Notice No. 34706, 73 RR 2d 1474, 1477 (M.M.Bur. 1993)*, do not involve contingent applications and thus, are inapposite. Finally, neither HMS nor Big River is entitled to an opportunity to amend their applications to remove the conflict with the currently licensed facilities of WQLT-FM. *See Modification of Processing Rules for Commercial FM Broadcast Applications, 7 FCC Rcd 5074, 5078 (1992) (citing related inconsistent application rule, 47 C.F.R. § 73.3518, as an example of a defect which cannot be cured by amendment under the relaxed "hard look" processing rules).*²

Conclusion

For the foregoing reasons, we conclude that the "one step" applications of H-M-S Broadcasting Company and Big River Broadcasting Corporation for construction permits for WDXE-FM and WXFL are in violation of Section 73.3517, grant the informal objection of D. Michael Self Broadcasting, Inc. on this basis, and find that these applications were inadvertently accepted for filing. Accordingly, it is ORDERED that the WDXE-FM and WXFL "one step" applications are DISMISSED. Big River Broadcasting Corporation's application for a covering Class C1 license for WQLT-FM is retained in pending status.

Sincerely,



Peter H. Doyle, Assistant Chief
Audio Services Division
Mass Media Bureau

cc: Allocations Branch

² Big River's and HMS's contention that Self's Pulaski rulemaking is defective is not relevant to our action on the referenced applications.

ATTACHMENT 2

TECHNICAL STATEMENT
In support of
PETITION FOR RULE MAKING
Big River Broadcasting Corporation and
H-M-S Broadcasting Company
May, 1997

INTRODUCTION

This technical statement has been prepared on behalf of Big River Broadcasting Corporation ("BRBC"), licensee of FM broadcast stations WXFL(FM), Channel 241A and WQLT(FM), Channel 297C at Florence, Alabama and H-M-S Broadcasting Company ("HBC"), licensee of FM broadcast station WDXE-FM Channel 240A at Lawrenceburg, Tennessee (collectively "Petitioners") in support of a Petition for Rule Making, requesting a change in the FM Table of Assignments, Paragraph 73.202(b) of the Federal Communications Commission's Rules as follows:

City	Channel Number	
	Present	Proposed
Florence, Alabama	241A, 297C	297C1
Killen, Alabama		241C2
Lawrenceburg, Tennessee	240A, 248A	248A, 294A

As can be gleaned from the attached Figures, the above proposed modifications can be added to the Federal Communications Commission Table of Assignments without the necessity of any other changes and without the creation of any new preclusion area.

DISCUSSION

Petitioners request for the above referenced changes in the Table of FM Allotments are each mutually exclusive with the presently authorized facilities of each Petitioner. Therefore, Petitioner's are not subject to competing applications for their existing authorizations.

WQLT Proposal

Figure 1, is a computer generated FM Separation Study conducted from the presently licensed WQLT tower site using the Commission's specified method of distance computations. Figure 1 clearly demonstrates that FM Channel 297C1 could be assigned in lieu of Channel 297C to Florence, Alabama. The information contained in Figure 1, was utilized to determine the clearance area outlined in Figure 1A.

Figure 1A is a full scale reproduction of a portion of a computer generated 1:500,000 scale map, the center of which represents the reference coordinates utilized in the preparation of this report. The geographic coordinates selected for this study were:

N 34° 40' 24"

W 87° 42' 56"

Figure 1A, details the area of Florence, Alabama and the pertinent arcs from all co-channel as well as adjacent channel facilities, allocated, assigned or operational within 300 kilometers of the proposed allocation. For purposes of demonstrating clearance, the present license and allocation for WQLT-FM on Channel 297C at Florence, Alabama have been ignored. The Commission should note that WQLT-FM is presently short spaced as a full Class C facility to FM Broadcast Station

WRVW(FM) Channel 298C at Lebanon, Tennessee. Based on Figures 1 and 1A it is obvious that WQLT can be downgraded to Channel 297C1 at its present tower site.

Figure 2 contains a 1:1,000,000 scale NOAA World Aeronautical Chart upon which the city grade (70 dBu) and interference free (60 dBu) contours of WQLT as a maximized Class C1 facility have been superimposed. Figure 2 clearly demonstrates the calculated city grade signal (70 dBu) of the proposed facility utilizing the presently authorized tower site, with a center of radiation at 305 meters above average terrain and an effective radiated power of ninety three kilowatts will clearly encompass the entire community of Florence, Alabama.

WQLT is presently authorized to operate with a reduced Class C facilities of 100,000 watts at an antenna height above average terrain of 305 meters. If WQLT were allowed to modify it's operation from the currently licensed Class C facility to a maximized Class C1 operation on Channel 297 (107.3 mHz), the net loss of interference free service for WQLT would be the following:

	Area Served in Square Kilometers	Population Served
Present WQLT	16,775.8	407,511
<u>Proposed WQLT</u>	<u>16,445.8</u>	<u>399,701</u>
Net Loss	330.0	7,810

As can be gleaned from the coverage area and population tabulations outlined above the WQLT downgrade will result in a loss of coverage to only .44 percent of the presently licensed coverage area.

WXFL Proposal

Section 1.420 (i) of the Commission's Rules permits an FM radio broadcast station to petition the Commission to amend the FM table of allotments to specify a new community of license for an FM radio station where the new allotment is mutually exclusive with the present allotment. In addition, the station involved would not risk the loss of its authorization to competing applicants. In this case Killen, Alabama is located 13.5 kilometers from Florence, Alabama which is 150 kilometer short of the 166 kilometers separation required between a new Class C2 operation and an existing co-channel Class A operation.

Killen, Alabama is an incorporated city located in the south eastern portion of Lauderdale County in northwest Alabama. 1990 U.S. Census figures listed the population of the City of Killen, Alabama as 1,047 persons, and the Lauderdale County population as 79,661 persons.

Figure 3, is a computer generated FM Separation Study conducted from proposed WXFL Channel 241C2 tower site using the Commission's specified method of distance computations. Figure 3 clearly demonstrates that FM Channel 241C2 could be assigned to Killen, Alabama in lieu of Channel 241A at Florence, Alabama. The information contained in Figure 3, was utilized to determine the Clearance Area outlined in Figure 3A.

Figure 3A contains a computer generated 1:500,000 scale map, the center of which represents the reference coordinates utilized in the preparation of this report. The geographic coordinates selected for this study were:

N 34° 51' 52"
W 87° 23' 43"

Figure 3A, details the area of Killen, Alabama and the pertinent arcs from all co-channel as well as adjacent channel facilities, allocated, assigned or operational within 300 kilometers of the proposed allocation. For purposes of demonstrating clearance, the present license and allocation for WXFL on Channel 241A at Florence, Alabama have been ignored, in addition the Commission should note that WXFL would be short spaced as a full Class C2 facility to FM Broadcast Station WDXE(FM) Channel 240A at Lawrenceburg, Tennessee.

Figure 4 contains a 1:1,000,000 scale NOAA World Aeronautical Chart upon which the city grade (70 dBu) and interference free (60 dBu) contours of WXFL as a maximized Class C2 facility have been superimposed. Figure 4 clearly demonstrates the calculated city grade signal (70 dBu) of the proposed facility utilizing the proposed tower site, with a center of radiation at 150 meters above average terrain and an effective radiated power of fifty kilowatts will clearly encompass the entire community of Killen, Alabama.

WXFL is presently authorized to operate with maximized Class A facilities of 2.45 kilowatts at an antenna height above average terrain of 158 meters. If WXFL were allowed to modify its operation from the currently licensed Class A facility at Florence to a maximized Class C2 operation on Channel 241(96.1 MHz), the net gain of interference free service for WXFL would be the following:

	Area Served in Square Kilometers	Population Served
Present WXFL	2641.5	126,460
<u>Proposed WXFL</u>	<u>8503.5</u>	<u>313,207</u>
Net Gain	5862.0	186,747

WDXE-FM Proposal

WDXE-FM presently operates as a limited Class A facility on Channel 240A at Lawrenceburg, Tennessee. The present WDXE operation is limited to 3.0 kilowatts to protect WTWX-FM Channel 240C3 at Guntersville, Alabama. If Channel 294A were allotted in lieu of Channel 240A and the WDXE license were modified accordingly, WDXE could then operate, without restriction, as a full Class A facility.

Channel 294A is the 54 I.F. separated channel to the presently licensed WDXE-FM facility. This petition proposes to utilize the existing WDXE-FM tower to transmit on Channel 294A in lieu of Channel 240A. Section 73.207 of the Commission's Rules provides for a required separation of 10 kilometers for Class A facilities operating on any intermediate frequency. Since it is not possible to operate both facilities from the same site as proposed herein, the proposal to operate WDXE-FM on Channel 294A in lieu of Channel 240A is mutually exclusive with the present WDXE-FM operation.

Figure 5 contains a computer generated 1:750,000 scale map detailing the present WXFL Channel 241A at Florence, Alabama city grade and interference free coverage contours and the proposed WXFL Channel 241C2 at Killen, Alabama city grade and interference free coverage contours.

Figure 6 contains a computer generated FM Separation Study conducted from the present WDXE-FM Channel 240A tower site using the Commission's specified method of distance computations. Figure 6 clearly demonstrates that FM Channel 294A could be assigned to Lawrenceburg, Tennessee in lieu of Channel 240A. The information contained in Figure 6, was utilized to determine the Clearance Area outlined in Figure 6A.

Figure 6A contains a computer generated 1:500,000 scale map, the center of which represents

the reference coordinates utilized in the preparation of this report. The geographic coordinates selected for this study were:

N 35° 15' 25"

W 87° 18' 24"

Figure 6A, details the area of Lawrenceburg, Tennessee and the pertinent arcs from all co-channel as well as adjacent channel facilities, allocated, assigned or operational within 300 kilometers of the proposed allocation. For purposes of demonstrating clearance, the present license and allocation for WQLT on Channel 297C at Florence, Alabama have been ignored.

Figure 7 contains a 1:500,000 scale NOAA Aeronautical Chart upon which the city grade (70 dBu) and interference free (60 dBu) contours of WDXE-FM as a maximized Class A facility have been superimposed. Figure 7 clearly demonstrates the calculated city grade signal (70 dBu) of the proposed facility utilizing the present WDXE-FM tower site, with a center of radiation at 100 meters above average terrain and an effective radiated power of six kilowatts will clearly encompass the entire community of Lawrenceburg, Tennessee.

WDXE-FM is presently authorized to operate with reduced Class A facilities of 3.0 kilowatts at an antenna height above average terrain of 100 meters. If WDXE-FM were allowed to modify its operation from the currently licensed Class A facility on Channel 240A to a maximized Class A operation on Channel 294A, the net gain of interference free service for WDXE-FM would be the following:

	Area Served in Square Kilometers	Population Served
Present WDXE-FM	1692.2	34,916
<u>Proposed WDXE-FM</u>	<u>2284.2</u>	<u>49,164</u>
Net Gain	592.0	14,248

CONCLUSION

Grant of the facilities requested in this petition will result in new interference free FM radio service being provided to the following:

WDXE-FM Service Gain	592 sq. km	14,248 persons
<u>WXFL Service Gain</u>	<u>5,862 sq. km</u>	<u>186,747 persons</u>
Gross Service Gain	6,454 sq. km	200,995 persons
<u>WQLT Service Loss</u>	<u>330 sq. km</u>	<u>7,810 persons</u>
Net Service Gain	6,124 sq. km	193,185 persons

Based on this information, and the figures that are included in this Report, we believe that the proposed assignments would be in full compliance with the Federal Communications Commission's Rules and Regulation, and that Channel 297C1 could be assigned to Florence, Alabama in lieu of Channel 297C and the license of WQLT modified accordingly; Channel 294A could be assigned to Lawrenceburg, Tennessee in lieu of Channel 240A and the license of WDXE-FM modified accordingly; and finally that Channel 241C2 could be assigned to Killen, Alabama as that communities first local broadcast service in lieu of Channel 241A at Florence, Alabama and the license of WXFL modified accordingly.

Therefore, Big River Broadcasting Corporation and H-M-S Broadcasting Company, respectfully request amendment of the Commission's Table of Assignments, Section 73.202(b), and will promptly apply for a construction permit, should the Federal Communications Commission make the requested assignment.

Respectfully,

Kirk A. Tollett
Consultant to Big River Broadcasting Corporation
and H-M-S Broadcasting Company
May 23, 1997

FIGURE 1
FM SEPARATION STUDY
BIG RIVER BROADCASTING CORP.
WQLT-FM CHANNEL 297 CLASS C1
FLORENCE, ALABAMA

FM search of channel 297C1 (107.3 MHz), at N. 34 40 24, W. 87 42 56.

Searching Channel 297C1 (107.3 MHz):		ST	CHN	CL	S	DIST	SEPN	BRNG	CLEARANCE
CALL	CITY	MS	294	C2	U	117.2	79.0	257.0°	38.2
ALC	New Albany	MS	294	C2	L	110.7	79.0	259.1°	31.7
WWZDFM	New Albany	TN	294	A	V	74.7	75.0	30.0°	-0.3
ALC	Lawrenceburg	TN	294	A	A	74.7	75.0	30.0°	-0.3
WDXEFM	Lawrenceburg	AL	295	C	U	156.3	105.0	147.2°	51.3
ALC	Birmingham	AL	295	D	A	58.2	0.0	86.0°	58.2
NEW-T	Trinity	AL	295	C	L	156.3	105.0	147.2°	51.3
WODL	Birmingham	MS	296	C3	U	210.0	144.0	215.0°	66.0
ALC	Louisville	MS	296	A	L	210.0	133.0	215.0°	77.0
WLSMFM	Louisville	MS	296	C3	C	210.1	144.0	215.0°	66.1
WLSMFM	Louisville	TN	296	A	A	146.4	133.0	59.2°	13.4
ALC	Tullahoma	AL	297	C	U	0.0	270.0	0.0°	-270.0
ALC	Florence	AL	297	C	L	0.0	270.0	0.0°	-270.0
WQLT	Florence	AL	297	C1	C	0.0	245.0	0.0°	-245.0
WQLT	Florence	AR	297	A	U	232.8	200.0	299.8°	32.8
ALC	Osceola	AR	297	A	L	235.2	200.0	301.0°	35.2
KOSEFM	Osceola	AR	297	A	C	235.2	200.0	301.0°	35.2
KOSEFM	Osceola	GA	297	C	U	347.7	270.0	134.8°	77.7
ALC	Columbus	GA	297	C	L	347.7	270.0	134.8°	77.7
WCGQ	Columbus	TN	297	A	U	236.7	200.0	59.8°	36.7
ALC	Spencer	TN	297	A	L	228.1	200.0	61.2°	28.1
WWEE	Spencer	TN	298	C1	U	195.3	177.0	25.4°	18.3
ALC	Lebanon	TN	298	C3	U	183.6	144.0	279.3°	39.6
ALC	Germantown	TN	298	A	C	193.4	133.0	285.2°	60.4
WJOI	Germantown	TN	298	C3	A	182.8	144.0	282.9°	38.8
WJOI	Germantown	TN	298	C1	L	195.3	177.0	25.4°	18.3
WRVW	Lebanon	AL	299	C	U	144.5	105.0	136.3°	39.5
ALC	Birmingham	AL	299	C	L	144.5	105.0	136.3°	39.5
WENNFM	Birmingham	TN	299	C3	U	120.2	76.0	316.3°	44.2
ALC	Henderson	TN	299	C3	C	120.2	76.0	316.3°	44.2
WHMFM	Henderson	TN	299	A	L	120.2	75.0	316.3°	45.2
WHMFM	Henderson								